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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,384	06/07/2001	Anja Feldmann	2000-0252-CON	9740

7590 06/30/2005
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EXAMINER

JONES, HUGH M

ART UNIT	PAPER NUMBER
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2128

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/876,384

Applicant(s)

FELDMANN ET AL.

Examiner

Hugh Jones

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/11/2005
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

1. Claims 1-34 of U. S. Application 09/876,384, filed June 07, 2001, are pending.

Information Disclosure Statement

2. Applicants have provided references authored by at least some of the inventors. An exact date has not been provided; and it is assumed that the reference qualifies as prior art. If this is incorrect, please advise the office. Other references by some of the inventors have not been provided and which are very material to the issue of patentability of the instant claims. Please provide in, the next response to the office, other relevant references by the inventors in order that the references may be considered early in the prosecution.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 1-6 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Lewis. The rejection is incorporated by reference from the office action of 1/6/2005.
5. Claims 1-34 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Feldmann et al. (Applicant's IDS).
6. Feldmann et al. disclose receiving network topology and traffic demand as input (Fig. 1; Netscope Tool Overview); a data model (Fig. 1; Netscope Tool Overview; The Data Model); a routing model (Fig. 1; Netscope Tool Overview; Routing); topology information derived from operational packet-switched network (Fig. 1; Netscope Tool Overview); data extracted from router configuration files (Fig. 1; Netscope Tool Overview); data extracted using end-to-end query mechanisms (Fig. 1; Netscope Tool Overview); using topology information derived from a proposed topology design (Fig. 1; Netscope Tool Overview); network traffic demand derived from data obtained from an operational packet-switched network (Fig. 1; Netscope Tool Overview); data derived from traffic measurements made at ingress routers (Fig. 1; Netscope Tool Overview); traffic measurements made between an ingress link and a set of egress links (Fig. 1; Netscope Tool Overview); traffic measurements collected by associating one or more destination network addresses with the set of egress links (Fig. 1; Netscope Tool Overview); wherein the set of egress links is identified by extracting reachability information from network forwarding tables, BGP tables or network configuration files (Fig. 1; Netscope Tool Overview); deriving traffic demand information from estimates of network traffic demand (Fig. 1; Netscope Tool

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Overview) or customer subscription information (Fig. 1; Netscope Tool Overview); providing a GUI with network nodes links and traffic calculated by the model (Fig. 1; Netscope Tool Overview); wherein the routing model simulates the OSPF routing protocol (Fig. 1; Netscope Tool Overview; pp. 15-16) and the IS-IS protocol (Fig. 1; Netscope Tool Overview).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 7-10 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis in view of Beigi et al.. The rejection is incorporated by reference from the office action of 1/6/2005.

9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis in view of Beigi et al. and in further view of Hao et al.. The rejection is incorporated by reference from the office action of 1/6/2005.

10. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis in view of Hao et al.. The rejection is incorporated by reference from the office action of 1/6/2005.

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11. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis in view of Picazo et al.. The rejection is incorporated by reference from the office action of 1/6/2005.

12. As to claims 18-34, the limitations of claims 18-34 are similar to the limitations of claims 1-17. Therefore, they are rejected on the same rationale, *supra*. The rejection is incorporated by reference from the office action of 1/6/2005.

Response to Arguments

13. Applicant's arguments filed 4/11/2005 have been fully considered but they are not persuasive.

14. As per arguments re the 102 Lewis rejection, Lewis discloses a data model (col. 2, lines 27-34). Lewis discloses extracting data from router configuration files (col. 4, lines 15-24). Lewis discloses data extraction using end-to-end query mechanisms (col. 3, lines 25-33). Applicants have merely provided a piecemeal analysis of the 103 rejections. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

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- Felsmann et al.: "Fig. 1; Netscope: Traffic Engineering for IP Networks"; pp. 1-13; Citeseer article; 1999. This article is not being applied as prior art because it is cumulative to the art of record, namely the Feldmann article provided in the IDS of 4/11/2005.

16. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 4/11/2005 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609(B)(2)(i). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

17. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be:

directed to: Dr. Hugh Jones telephone number (571) 272-3781,

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Monday-Thursday 0830 to 0700 ET,
or

the examiner's supervisor, Jean Homere, telephone number (571) 272-3780.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, telephone number (703) 305-3900.

mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 308-9051 (for formal communications intended for entry)
or (703) 308-1396 (for informal or draft communications, please label *PROPOSED* or *DRAFT*).

Dr. Hugh Jones

Primary Patent Examiner

June 26, 2005

HUGH JONES Ph.D.
PRIMARY PATENT EXAMINER
TECHNOLOGY CENTER 2108